GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

Prisoners - Grant of Special Remission to the life convicted prisoners on the occasion of Republic Day on 26-01-2019 - Guidelines - Issued.

HOME (PAROLES) DEPARTMENT

G.O.MS.No. 6 Dated: 09-01-2019

Read the following:-

1. G.O.Ms.No.17, Home (Prisons.B2) Department, dated. 17.01.2003.
2. Hon'ble Supreme Court of India Judgment dated 25-04-2014 in W.P.(Crl.) No.48/2014 filed by Union of India Vs V.Sriharan @ Murugan & Others.
3. Hon'ble Supreme Court of India Judgment dated 09-07-2014 in W.P.(Crl.) No.48/2014 filed by Union of India Vs V.Sriharan @ Murugan & Others.
4. Hon'ble Supreme Court of India Judgment dated 23-07-2015 in W.P.(Crl.) No.48/2014 filed by Union of India Vs V.Sriharan @ Murugan & Others.
5. G.O.Ms.No.163, Home(Paroles) Dept., Dated:18.11.2015.
6. G.O.Ms.No.8, Home(Paroles) Dept., Dated:23.01.2018.
7. Representation from Smt Kattula Lakshmi Samrajyam, M/o Kattula Hari, CT No.177,Central Prison, Rajamahendravaram.dated:Nil.
8. From the Director General of Prisons and CS, Andhra Pradesh, Vijayawada, Letter No. RC2/13/2018, dated: 12.12.2018.

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O R D E R:-

The Government have received representations from family members of life convicted prisoners requesting for grant of premature release (special remission) to the life convicted prisoners who have completed 5/7 years of sentence and the prisoners who have crossed the age of 65 years and suffering with chronic diseases, etc.

2. The special problems that face the life-term prisoners not only affect the prisoners as individuals but also the entire correctional system. International instruments and national policies suggest that deprivation of liberty may only be justified if accompanied by periodic review and assessment procedures that provides for options of release in due course of time with justifiable reasons. Absolute incarceration of individuals till the end of lives is no way acceptable for civilized communities. It is not only the humanitarian reasons that make pre-mature release of lifers inevitable, but also the cost-effectiveness of imprisonment. To incarcerate a person for life without the possibility of being released not only ignores two of the purposes of imprisonment, i.e., rehabilitation and reintegration into the society, but also places burdens on the state exchequer. Hence, it is imperative that inmates who are undergoing life imprisonment should be given a chance for 'life' outside, instead of a 'life' inside.

3. The Hon'ble Supreme Court of India in its Judgment dated 09-07-2014 in W.P.(Crl.) No.48/2014 filed by Union of India Vs V.Sriharan @ Murugan & Others restrained all the State Governments from exercising their powers of remission and commutation of sentence under Sections 432 and 433 of the Code of Criminal Procedure, 1973 to life convicts.

4. Subsequently, the Hon'ble Supreme Court of India modified the orders dated:09-07-2014 in their Judgment dated 23-07-2015 in W.P.(Crl.) No.48/2014 filed by Union of India Vs V.Sriharan @ Murugan & Others and permitted premature release with certain restrictions.

5. In the said Supreme Court Judgment, it is also clarified that the President of India in exercise of his powers under Article 72 of the Constitution of India and the Governors of the States in exercise of their powers under Article 161 of the Constitution of India are not prevented from exercising their power(s) even in those cases, where the Supreme Court has placed restrictions for grant of special remission. However, the cases of prisoners who fall under the restrictions placed by the Supreme Court are not taken into consideration by the Government of Andhra Pradesh.

(P.T.O.)

6. Now, the Government have decided to review and recommend the cases of life convicted prisoners who have been convicted for an offence or offences against laws relating to matters to which the executive power of the State extends with certain conditions for grant of Special Remission on the occasion of Republic Day which falls on 26th January, 2019, under article 161 of the Constitution of India, though they are covered by Section 433-A of Code of Criminal Procedure, 1973.

7. Accordingly, relaxing the orders issued in the reference 1st read above, the Government hereby issues the following guidelines giving one time exemption to consider special remission in the cases of following categories of prisoners who have been convicted by Civil Courts of criminal jurisdiction. These guidelines will be applicable to the following life convicts undergoing life sentence, keeping in view of their good behaviour, subject to conditions as specified at para-8 below:-

a) Cases of convicted women prisoners sentenced to imprisonment for life, including those governed by Section 433-A of the Code of Criminal Procedure, 1973 (Central Act 2 of 1974) who have undergone an actual sentence of 5 years including remand period and total sentence of 7 years including remission as on 26-01-2019 shall be considered for release.
b) Cases of convicted male prisoners sentenced to imprisonment for life including those governed by Section 433-A of the Code of Criminal Procedure, 1973 (Central Act 2 of 1974) and who have undergone an **actual sentence of 7 years** including remand period and **total sentence of 10 years** including remission as on 26-01-2019 shall be considered for release.
c) Cases of old and decrepit prisoners as defined in Rule 321 (h) of Andhra Pradesh Prison Rules, 1979, read with G.O.Ms.No.44, Home (Prisons.B2) Department, dated:16-03-2007 shall be considered for release.
d) Cases of convicted prisoners sentenced to imprisonment for life including those governed by Section 433-A of the Code of Criminal Procedure, 1973 (Central Act 2 of 1974) aged more than 65 years and have undergone an actual sentence of 5 years including remand period and total sentence of 7 years including remission as on 26-01-2019 shall be considered for release.

8. The remission of sentence in para (7) above shall apply to prisoners, who have been convicted by Courts situated within the State of Andhra Pradesh and are undergoing sentence in Andhra Pradesh and in other States, but shall **not apply** to the following two categories of prisoners, namely:

CATEGORY I: Specified by Supreme Court order dated **23-07-2015** in W.P.(Crl.) No.48/2014.

a) where life sentence has been awarded specifying that:-
    (i) the convict shall undergo life sentence till the end of his life without remission or commutation;
    (ii) the convict, shall not be released by granting remission or commutation till he completes a fixed term such as 20 years or 25 years or like.
b) where no application for remission or commutation was preferred, or considered *suo motu* by the concerned State Governments/authorities.
c) where the investigation was conducted by Central Investigating Agency like the Central Bureau of Investigation.
d) where the life sentence is under any Central law or under Section 376 of the Indian Penal Code, 1860 or any other similar offence.

CATEGORY II:

i. Prisoners convicted and sentenced by courts situated outside the State of Andhra Pradesh.
ii. Prisoners convicted of offences against laws relating to a matter to which the executive powers of the Union extends;
iii. Prisoners involved in and convicted for offences related to communal incidents;

iv. Life convicts who are punished for any prison offence during the last 3 preceding years and those who are punished for any serious prison offence like revolt / organising revolt against the prison administration anytime during their entire period of stay in the prison.

v. Prisoners who are released on parole / furlough and who commit / attempt any of the offences punishable under any law for the time being in force.

vi. Life convicts who have escaped from custody during preceding 3 years and have not surrendered voluntarily.

vii. Prisoners convicted under the Essential Commodities Act, 1955.

viii. Prisoners convicted under Narcotic Drugs and Psychotropic Substances Act, 1985, the Andhra Pradesh Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1993, the Prevention of Terrorism Act, 2002 and the Special Acts enacted for Prevention of Terrorism and Mafia and other organized crimes who had been sentenced to imprisonment for life.

ix. Life convicts who have committed offence / offences against girls upto 18 years of age and boys upto 16 years of age.

x. Life convicts who are convicted for Kidnapping and related offences U/s 363-A, 364, 364-A, 366, 366-A, 366-B, 367, 368, 369, 372 and Section 373 of the Indian Penal Code, 1860.

xi. Life convicts convicted in crimes against women under section 376 IPC.

xii. Professional killers who have been guilty of murder by being hired.

xiii. Prisoners convicted under waging or attempting to wage war, or abetting the waging of war, against the Government of India.

xiv. Prisoners convicted of murder of Public Servants while performing duty.

xv. Prisoners sentenced to death sentence, which is later commuted to life sentence.

xvi. Life convict prisoners who are at large on Parole/Furlough/Bail at the time of issuance of Government Orders.

9. The cases of prisoners who are convicted for life along with offences under the following provisions of Law, subject to not coming under purview of conditions at para-8 above, shall be considered for grant of remission by the Government after undergoing the periods of sentence as specified:

i. (a) Life convicts (male) convicted under sections 379 to 402 Indian Penal Code, 1860; on completion of 14 years of actual sentence including remand period and 20 years of total sentence including remission, provided the convict does not have a past history of conviction under any of those sections.

(b) Life convicts (female) convicted under sections 379 to 402 of the Indian Penal Code, 1860; on completion 10 years of actual sentence including remand period and 14 years of total sentence including remission, provided the convict does not have a past history of conviction under any of those sections.

ii. Life convicts who have overstayed on parole/furlough for more than three days in the last preceding 3 years; on completion of 10 years of actual sentence with remand period and 14 years with remission.

iii. (a) Life Convicts (Male) convicted for life imprisonment and involved in Sections, 304-B, 306, 354 and 498-A IPC shall be released on completion of 14 years of actual sentence including remand and 20 years of total sentence including remission as per NHRC guidelines.

(b) Life Convicts (Female) convicted for life imprisonment and involved in Sections, 304-B, 306, 354 and 498-A IPC shall be released on completion of 10 years of actual sentence including remand and 14 years of total sentence including remission as per NHRC guidelines.

10. The grant of this special remission by the Government of Andhra Pradesh will be subject to the final orders that may be passed by the Hon'ble Supreme Court of India while answering the referral order in W.P.(Crl.) No.48/2014 filed by Union of India Vs V.Sriharan @ Murugan & Others.

11. The Director General of Prisons and Correctional Services, Andhra Pradesh, Vijayawada is requested to send the list of prison-wise eligible convicts as per the guidelines in the proforma annexed to this order in six sets.

12. A Committee with the following members, under the Chairmanship of the Principal Secretary to Government, Home Department is hereby constituted, to review the lists and recommend to Government for consideration of special remission:-

1	Principal Secretary to Government, Home Department, Government of Andhra Pradesh, Velagapudi, Amaravati.	Chairperson
2	Secretary to Government, Legal Affairs, Law Department, Government of Andhra Pradesh, Velagapudi, Amaravati.	Member
3	Director General of Police, Andhra Pradesh, Mangalagiri Or his nominee.	Member
4	Chief Legal Advisor, CID, Andhra Pradesh, a District Judge Cadre Officer.	Member
5	Additional Director General of Police (Intelligence) O/o the Director General of Police, Andhra Pradesh, Mangalagiri.	Member
6	Director General of Prisons and Correctional Services, Andhra Pradesh, Vijayawada.	Member/ Convener

13. The G.O. is available on internet and can be accessed at the address http://www.aponline.gov.in.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

A.R. ANURADHA
PRINCIPAL SECRETARY TO GOVERNMENT

To
The Director General of Prisons and Correctional Services,
Andhra Pradesh, Vijayawada. (w.e.)
The Secretary to Government, Legal Affairs, Law Department,
Andhra Pradesh, Velagapudi, Amaravati.
The Chief Legal Advisor, CID, Andhra Pradesh.
The Additional Director General of Police (Law & Order), O/o. The Director General and Inspector General of Police, Andhra Pradesh, Mangalagiri.
The Addl. Director General of Police, (Intelligence) O/o the Director General of Police, Andhra Pradesh, Mangalagiri.
Copy to:
The Director, Information & Public Relations, Andhra Pradesh, Vijayawada.
PS to Principal Secretary to Governor.
PS to Special Chief Secretary to Chief Minister.
PS to Principal Secretary to Chief Secretary.
PS to Principal Secretary to Home Department

// FORWARDED :: BY ORDER //

SECTION OFFICER

ANNEXURE

(Annexure to G.O.Ms.No.6 , Home (Paroles & HRC) Department, Dated: 09.01.2019

Sl. No.	Name, CT No. and age of the convict	Residential address	Offence committed, Sentence, case No. & Date, Sentencing Court	Sentence served as on 26-01-2019	
				Actual Sentence	Total Sentence
				(YY) (MM) (DD)	**(YY) (MM) (DD)**